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Mayor Audit
Drane Purch.
Law Engineers

CEC/tk

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By: Joseph Martuccio, Law Director

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James E. D.
Chris Dault

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ORDINANCE NO. 200/2009

AN ORDINANCE AMENDING PART NINE - STREETS,
UTILITIES AND PUBLIC SERVICES CODE, OF THE
CODIFIED ORDINANCES OF THE CITY OF CANTON

WHEREAS, the City of Canton is considered by the U.S. EPA to be an owner/operator of a "municipal separate storm sewer system (MS4)" and therefore subject to comply with the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water Program requirements relating to the regulation and management of the quality and quantity of storm water runoff; and

WHEREAS, land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes causing flooding, stream channel erosion, and sediment and pollutant transport and deposition; and

WHEREAS, storm water runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species; and

WHEREAS, improper design and construction of storm water management systems can increase the velocity of storm water runoff thereby increasing stream bank erosion and sedimentation, and can increase flooding; and

WHEREAS, impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow; and

WHEREAS, substantial economic losses can result from the adverse impacts of storm water runoff on the waters of the municipality; and

WHEREAS, storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized through the regulation of storm water runoff from land development activities; and

WHEREAS, the regulation of storm water runoff discharges from land development activities in order to control and minimize increases in storm water runoff rates and volumes, stream channel erosion, and non-point source pollution associated with storm water runoff is in the public interest and will minimize threats to public health and safety; and

WHEREAS, regulation of land development activities by means of performance standards governing storm water management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of storm water runoff from development; and

WHEREAS, clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat; and

WHEREAS, illicit and non-storm water discharges to storm water management systems can contribute a wide variety of pollutants to waterways, and the control of these discharges is necessary to protect public health and safety and water quality;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANTON, STATE OF OHIO, THAT:

Section 1. Chapter 943, Sewer Regulations, of the Codified Ordinances is renamed "Sanitary Sewer Regulations."

Section 2. Title Three, Utilities, of Part Nine - Streets, Utilities and Public Services Code of the Codified Ordinances is amended by the addition of Chapter 961, Storm Water Management, which shall read as follows:

CHAPTER 961 STORM WATER MANAGEMENT

961.01 PURPOSES.

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens through the regulation of storm water discharges in the City of Canton. This Chapter seeks to meet that purpose through the following objectives:

- (a) To enable the City of Canton to comply with the National Pollutant Discharge Elimination System Storm Water Program requirements and other applicable federal and state regulations.

- (b) To facilitate compliance by owners of construction sites, developments, and permanent storm water management systems within the City of Canton with federal and state standards and permits.
- (c) To protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased storm water discharges from new land development and redevelopment.
- (d) To control the rate, volume, and quality of storm water runoff originating from development and redevelopment sites so that surface water, groundwater, and properties are protected and flooding and erosion potential are not increased.
- (e) To inhibit the deterioration of water resources resulting from development.
- (f) To control non-point source pollution and stream channel erosion.
- (g) To maintain the integrity of stream channels and networks for their biological functions, drainage, and natural recharge of groundwater.
- (h) To protect the condition of state (and U.S.) waters for all reasonable public uses and ecological functions.
- (i) To provide long-term responsibility for and maintenance of storm water management systems.
- (j) To facilitate the integration of storm water management and pollution control with other ordinances, programs, policies, and the comprehensive plan of the City of Canton.
- (k) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges from development and redevelopment activities.
- (l) To prohibit illicit and unauthorized discharges and illegal connections to the MS4 and establish respective enforcement provisions.
- (m) To establish legal authority to carry out all the inspection and monitoring procedures necessary to ensure compliance with this Chapter.

961.02 DEFINITIONS.

(a) The words and terms used in this Chapter and/or the City of Canton Storm Water Management Manual maintained by the City Engineering Department, unless otherwise expressly stated, shall have the following meaning:

(a) "Channel" means a natural or man-made open-water carrier, such as a swale, ditch, or stream.

(b) "City Engineer" means the appointed Engineer of the City of Canton, designated and qualified employees of the City Engineering Department, or other designated representatives of the City Engineering Department.

(c) "City of Canton" means the governing entity of the City of Canton, its employees, designated representatives, boards, or commissions.

(d) "City of Canton Storm Water Management Manual" means an engineering and/or project review document maintained by the City Engineering Department, containing policy, standards, applicability, criteria, requirements, recommendations, and guidance deemed appropriate by the City Engineering Department to assist with compliance with the provisions of this Chapter.

(e) "Construction Site Storm Water Quality Management" means the implementation of proper BMPs on construction sites to control erosion and sediment and reduce pollutants in storm water runoff from the respective land.

(f) "Development" means a parcel or contiguous parcels owned by one person or persons, proposed to be operated as one development for commercial, industrial, residential, institutional, or other applicable uses.

(g) "Ditch" means an open channel, either dug or natural, for the purpose of drainage conveyance or irrigation with intermittent flow.

(h) "Drainage" means the surface or subsurface conveyance of storm water runoff, excess surface water, or groundwater from land.

(i) "Erosion" means the process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.

(j) "Floatable Material" means in general, any foreign matter that may float or remain in water and includes, but is not limited to plastic, aluminum cans, wood products, bottles, and paper products.

(k) "Grading" means the process in which the topography of a site is altered, typically by earth-moving or filling activities.

(l) "Hazardous Material" means any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(m) "Illicit Discharge", as defined at 40 C.F.R. 122.26 (b)(2), means any discharge to an MS4 that is not composed entirely of storm water, except for those discharges to an MS4 pursuant to a National Pollutant Discharge Elimination System (NPDES) permit or otherwise listed or referenced in this Chapter.

(n) "Illegal Connection" means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.

(o) "Illicit" means not legally permitted or authorized; unlicensed; unlawful.

(p) "Imperviousness" means the resistance or inability of a surface to effectively absorb or infiltrate water. Types of impervious surfaces may include roads, streets, parking lots, rooftops, sidewalks, and other areas not covered by vegetation.

(q) "Intermittent Flow" means flow that occurs temporarily; flow that is not constant.

(r) "Municipal Separate Storm Sewer System (MS4)" means a publicly-owned conveyance or system of conveyances (including, but not limited to: roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and man-made or altered drainage ditches/channels, reservoirs, and other drainage structures) designed or used for collecting or conveying storm water runoff, which is not a combined sewer, and which is not part of a Publicly Owned Treatment Works as defined at 40 CFR 122.2. MS4 is also defined at 40 CFR 122.26(b)(8).

(s) "National Pollutant Discharge Elimination System (NPDES)" means a regulatory program under the Federal Clean Water Act that prohibits the discharges of pollutants into surface waters of the United States without a permit.

(t) "Non-Point Source Pollution" means any type of pollution that is not directly traceable to a particular source.

(u) "Non-Structural Storm Water Best Management Practice" means a storm water best management practice that is not constructed but still provides storm water quality treatment, such as, but not limited to, preservation, riparian areas, buffer zones, open spaces, "green concepts", "smart growth concepts", certain policies and ordinances that minimize impervious surfaces and/or direct development away from water resources, operation and maintenance procedures, general good housekeeping practices, etc.

(v) "Off-Lot Discharging Household Sewage Treatment System" means a system designed to treat household sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.

(w) "Pollutant" means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.

(x) "Post-Construction Storm Water Quality Management" means the implementation of permanent structural and non-structural best management practices on a site for perpetual treatment of storm water runoff after construction is completed.

(y) "Redevelopment" means a change to previously improved real estate, including, but not limited to, the demolition of buildings or structures, filling, grading, paving, or excavating.

(z) "Riparian Area" means naturally vegetated land adjacent to water resources which, if appropriately preserved, can help to stabilize stream banks, reduce and/or contain flood flows, and/or filter and settle out pollutants in runoff.

(aa) "Sediment" means the soils or other surface materials that can be transported or deposited by the action of wind, water, ice, or gravity, as a product of erosion.

(bb) "Sedimentation" means the deposition of sediment in water resources.

(cc) "Site" means the particular land, lot, parcel, or development in which any part of this chapter is being used to apply storm water management standards and/or requirements.

(dd) "Stop Work Order" means an order issued requiring that all regulated activity on a site be stopped.

(ee) "Storm Water Authority" means the departments or agencies, and their authorized agents, which are responsible for the administration of this ordinance.

(ff) "Storm Water Best Management Practices (BMPs)" means the combination of structural and/or non-structural storm water best management practices used for storm water quality management on a site.

(gg) "Storm Water Conveyance System" means the natural and/or man-made systems for storm water runoff conveyance, such as streams, storm sewers, ditches, swales, etc.

(hh) "Storm Water Management" means the implementation of storm water management systems on a site for proper storm water quantity management and storm water quality management in accordance with applicable regulations.

(ii) "Storm Water Management Systems" means natural and/or man-made storm water conveyance systems, storm water detention facilities, and/or best management practices as approved by the City of Canton for the applicable storm water quantity management and/or storm water quality management on a site.

(jj) "Storm Water Quality Management" means the implementation of storm water management systems on a site for proper management of the quality of construction site and post-construction storm water runoff. Storm water quality management attempts to reduce or eliminate erosion and sedimentation caused by storm water runoff as well as the transportation of pollutants in storm water runoff to water resources.

(kk) "Storm Water Quantity Management" means the implementation of storm water management systems on a site for proper storm water runoff conveyance and/or volume and rate control. Storm water quantity management attempts to control the amount of runoff from a site so as to not cause flooding to adjacent properties or over-burden the capacities of existing drainage infrastructure.

(ll) "Storm Water Runoff" means the portion of rainfall, melted snow, irrigation waters, and/or other drainage that flows across the ground surface.

(mm) "Structural Storm Water Best Management Practice" means a storm water best management practice that must be built to provide treatment of storm water runoff through storage, filtration, or infiltration. Examples include extended detention basins, bioretention cells, sand filters, vegetated filter strips, water quality swales, infiltration trenches, etc.

(nn) "Wastewater" means the spent water of a community or property. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

(oo) "Water Resource" means any public or private body of water, including wetlands, the area within the ordinary high water level of lakes and ponds, as well as the area within the ordinary high water level of any brook, creek, river, or stream having a defined bed and bank (either natural or artificial) which confines and conducts continuous or intermittent flow.

(pp) "Watershed" means the total drainage area contributing storm water runoff to a single point of interest; drainage area.

961.03 LEGAL AUTHORITY.

This Chapter is adopted pursuant to authority conferred by and in accordance with U.S. EPA's National Pollutant Discharge Elimination System Phase II Storm Water Program.

The Director of Public Service or designee, on behalf of the City of Canton, is authorized to administer and enforce the necessary standards and regulations set forth in or referenced by this Chapter, and amend the same from time to time as deemed necessary.

961.04 DESIGNATION OF STORM WATER AUTHORITY, POWERS, AND DUTIES.

(a) In the event of an emergency or any imminent or actual danger caused by or otherwise affiliated with storm water runoff, and to preserve the health, safety, and welfare to any person, property, or structure affected or potentially affected by such emergency or danger, the Director of Public Service or the Director of Public Safety or their authorized designees, may enter, without prior consent by the owner, upon any property and authorize the necessary work to alleviate or otherwise remedy such danger. Costs associated with said work may be assessed to the responsible persons, parties, and/or entities, in addition to any necessary enforcement or penalty in accordance with the provisions of this Chapter or any other provisions of law.

(b) The City Engineer, subject to the direction of the Director of Public Service or designee, is hereby designated to have the primary jurisdiction and control of the management of the City of Canton's MS4.

(c) The Director of Public Service or designee, on behalf of the City of Canton, is hereby authorized to designate the City Engineering Department or any other City Department the Administrator of this chapter. The City Engineering Department may furnish additional information necessary for the proper implementation of the requirements of this Chapter and may provide such information in the form of a "City of Canton Storm Water Management Manual".

(d) Representatives of the City Engineering Department, City Health Department, City Fire Department or other authorized government agency, shall have the right to enter upon any land for the purposes of making an inspection or acquiring information, in accordance with other provisions of this Chapter, to determine whether or not the property conforms to the requirements of this Chapter.

(e) The Director of Public Service or designee, on behalf of the City of Canton, is authorized to contract, in whole or in part, with the City Engineering Department, the Canton City Health Department, or other governmental agency, for the enforcement of this Chapter, in accordance with other provisions of this Chapter.

961.05 ADOPTION OF "CITY OF CANTON STORM WATER
MANAGEMENT MANUAL".

(a) Subject to the provisions set forth in this Chapter, the City of Canton hereby adopts the "City of Canton Storm Water Management Manual" which provides policy, standards, applicability, criteria, requirements, recommendations, and guidance for general storm water drainage, storm water quantity management, and storm water quality management in the City of Canton that are not provided explicitly in this Chapter. A copy of the "City of Canton Storm Water Management Manual" is hereby referenced and adopted as part of this Chapter.

(b) Subject to the approval of the Director of Public Service, the City Engineer is authorized to amend, supplement, or revise the "City of Canton Storm Water Management Manual". The City of Canton Storm Water Management Manual, shall be made available in the Office of the City Engineer, and may be updated and expanded from time to time, at the discretion of the City Engineering Department, based on improvements in engineering, science, monitoring, local maintenance experience, and federal or state regulations.

961.06 APPLICABILITY.

Policy, standards, criteria, requirements, specifications, and recommendations as set forth in this Chapter shall apply at all times and to all uses, activities, sites, developments, redevelopments, landowners, and other persons that discharge or cause to be discharged storm water runoff within the City of Canton, or as otherwise stated in this Chapter or in the current version of the "City of Canton Storm Water Management Manual".

961.07 EXEMPTIONS.

Any exemptions from compliance with any part(s) of this Chapter shall be as stated accordingly in applicable sections of this Chapter or within the "City of Canton Storm Water Management Manual".

961.08 CONFLICTS.

The requirements of this Chapter should be considered minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment, as determined by the City Engineer, shall be considered to take precedence.

961.09 SEVERABILITY.

If the provisions of any article, section, subsection, paragraph, subdivision, clause or or attachment to this Chapter is judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder.

961.10 DISCLAIMER OF LIABILITY.

(a) Compliance with the provisions of this Chapter shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this Chapter are promulgated to promote the health, safety and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

(b) The provisions of this Chapter shall not be construed as authorizing any person to maintain a nuisance on a property, and compliance with the provisions of this Chapter shall not be a defense in any action to abate such a nuisance.

(c) Failure of the City of Canton to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Canton, its officers, employees, or agents as being responsible for any condition or damage resulting therefrom.

(d) By approving a plan under this Chapter, the City of Canton does not accept responsibility for the design, installation, and operation and maintenance of private storm water management systems.

961.11 INSPECTION.

(a) Upon presentation of proper credentials and having obtained consent from the property owner or tenant in possession, representatives of the City Engineering Department, City Health Department, or other authorized department or government agency, may enter at reasonable times or such other times as may be necessary, any structure, dwelling, premises or building site, or upon property or structures for the purpose of making inspections and performing the duties required by this Chapter.

(b) If acting to determine compliance with applicable provisions of the City of Canton Storm Water Management Manual, persons described in subsection (a) hereof may enter any site currently under construction or under permit by the City without first obtaining consent of the property owner or tenant in possession.

(c) If acting under to actual or apparent emergency conditions, and in conjunction with the authority set forth in Section 961.04, persons described in subsection (a) hereof may also enter without first obtaining consent of the property owner or tenant in possession.

(d) The City of Canton shall have the right to set up at facilities subject to this Chapter such devices as are necessary, as determined by the City of Canton, to conduct monitoring and/or sampling of the facility's storm water discharge.

(e) The City of Canton shall have the right to require the facility owner/operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at the owner/operator's expense. All devices used to measure storm water flow and quality shall be calibrated by the City of Canton or its authorized representative to ensure their accuracy.

(f) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the City of Canton. The costs of clearing such access shall be borne by the facility owner/operator.

(g) Unreasonable delays in allowing the City of Canton access to a facility subject to this Chapter for the purposes of illicit discharge inspection is a violation of this Chapter.

(h) If the City of Canton is refused access to any part of the facility from which storm water is discharged, and the City of Canton demonstrates probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this Chapter or any order issued hereunder, or to protect the public health, safety, and welfare, the City of Canton may seek issuance of a search warrant pursuant to Codified Ordinance Section 961.12, and any civil remedies including, but not limited to, injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction pursuant to the other provisions of this Chapter.

(i) Any costs associated with these inspections may be assessed to the facility owner/operator.

961.12 ADMINISTRATIVE INSPECTION WARRANT.

The City Engineer may apply to any court of record within his jurisdiction for an administrative inspection warrant pursuant to Ohio R.C. 2933.21(F), under any of the following circumstances:

- (a) If any inspection required pursuant to law is refused, hindered or thwarted by the owner or the agent of the owner; or
- (b) If in the opinion of the City Engineer an inspection is necessary to determine the existence of articulable physical conditions which are or may become hazardous to the public health, safety or welfare of any person or persons; or
- (c) The City Engineer has reason to believe that hazardous or dangerous conditions exist, that there are conditions existing which constitute a violation

of this Chapter, or reason to believe that there is non-compliance or lack of maintenance of previously imposed storm water management requirements.

961.13 ENFORCEMENT.

(a) Notice of Violation of Regulations.

- (1) Upon commencing or completion of an activity subject to these regulations, if upon inspection, the City Engineer or designee determines that conditions exist in violation of the existing regulations, the matter may be referred to the designated City Department or entity for further enforcement action pursuant to the applicable part of this Chapter.
- (2) Upon determination that a person has violated a prohibition or failed to meet a requirement of this Chapter, the designee may order compliance by written Notice of Violation. Such notice must specify the violation and shall be hand delivered and/or sent by registered mail to the owner/operator of the facility, and shall contain:
 - A. The name and address of the owner or the applicant or the responsible person.
 - B. The address or other description of the site upon which the violation is occurring.
 - C. A statement specifying the nature of the violation.
 - D. A description of the remedial measures necessary to bring the action or inaction into compliance with this Chapter and the date for the completion of such remedial action. Remedial measures may include, but are not limited to, the following, as applicable:
 1. The performance of monitoring, analyses, and reporting;
 2. The elimination of illicit discharges or illegal connections;
 3. That violating discharges, practices, or operations cease and desist;
 4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
 5. The implementation of source control or treatment BMP's; or
 6. The necessary reconstruction to be in substantial compliance with the approved plans (if applicable) or otherwise to the satisfaction of the City Engineer.

- E. A statement describing potential enforcement and/or penalties that may be assessed against the person to whom the notice of violation is directed.
- F. A statement that the determination of violation may be appealed to the Service Director of the City of Canton by filing a written notice of appeal within five (5) business days after the notice of violation.

The written notice of appeal shall state the specific issue or issues which are the subject of the appeal and the grounds for the appeal. The Service Director shall schedule and conduct a hearing within 30 days after the filing of the notice of appeal and notify the appealing party and such other parties as the Director deems necessary to properly adjudicate the matter in writing of the hearing date, time and place. The appealing party shall have the right to submit a written statement, to appear at the hearing in person, or to be represented by an attorney or other representative. The decision by the Service Director following the hearing shall be provided in writing to the appealing party within ten (10) days from the date of the hearing.

- (3) If abatement of a violation and/or restoration of affected property are required, the Notice of Violation shall set forth a deadline within which such remediation or restoration must be completed. Said Notice shall further advise that, should the facility owner/operator fail to remediate or restore within the established deadline, the City has the right to perform said remediation or restoration, assess the costs of such work to the responsible person, party, or entity, and initiate any other legal action and administrative penalty for enforcement in accordance with the provisions of this Chapter.
- (4) Any person receiving a Notice of Violation must meet compliance standards within the time established in the Notice of Violation.

(b) Administrative Hearing.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the City of Canton shall schedule an administrative hearing to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent via registered mail. This Administrative Hearing will be heard by the Engineer or his designee.

(c) Stop Work Order.

Whenever the provisions of this Chapter are not complied with for current activities or projects under construction that are subject to the requirements of the City of Canton Storm Water Management Manual, the City Engineer or designee may issue a Stop Work Order against the property owner or his representative. Such Stop Work Order cannot be removed except by written notice of the City Engineer or designee after satisfactory evidence has been supplied that the violation has been corrected.

(d) Injunctive Relief.

It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this Chapter and/or the Board of Health pursuant to Ohio R.C. 3709.211. If an owner/operator has violated or continues to violate the provisions of this Chapter, the City of Canton may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.

961.14 REMEDIES NOT EXCLUSIVE.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of the City to seek cumulative remedies.

961.15 CIVIL PROCEEDINGS.

(a) In addition to all other enforcement and compliance measures, whenever the City Engineer or designee or any other officer having the right of enforcement of these standards and regulations is satisfied that any provision he has the right to enforce has been violated or is about to be violated in any respect, or that any order or direction made in pursuance of the enforcement of these standards and regulations has not been complied with, or is being disregarded, and whenever he is satisfied that civil proceedings are necessary for the enforcement thereof, or to prevent further violation or harm or threat of harm to the health, safety and welfare of persons or property, he may apply to the Law Director who is hereby authorized to institute civil proceedings. Such civil proceedings shall be brought in the name of the City. However, nothing in this section and no action taken thereunder shall be held to exclude such criminal proceedings as may be authorized under the Ohio Revised Code, or any of the laws in force to exempt anyone violating this Chapter or any part of such laws from any penalty which may be incurred.

(b) Any proceeding brought or instituted pursuant to this section shall also include a claim for payment or reimbursement of any and all costs or obligations assessed or incurred or associated with any occurrence or event in violation of the provisions, standards and regulations established in this Chapter. This specifically includes, but is not limited to, costs or obligations arising directly or indirectly or by or through a third party

agency or business such as "Hazmat" and any administrative monetary penalties assessed and or other costs imposed pursuant to Section 961.99 of this Chapter.

961.16 VIOLATIONS.

(a) No person, being the owner or having control of any property, shall violate any standard, regulation, provision, amendment or supplement of this Chapter or the City of Canton Storm Water Management Manual, or fail to obey any lawful order of the City Engineer or designee issued in pursuance thereof. Each day during which such person continues to violate any regulation, provision, amendment or supplement of this Chapter shall be deemed a separate offense.

(b) No architect, engineer, contractor, building subcontractor or other person shall assist in the violation of any regulation, provision, amendment, or supplement of this Chapter, or of any certificate, order, or permit issued hereunder.

(c) No person shall interfere with the City Engineer or designee or any person authorized by such department acting in the performance of their duties pursuant to this Chapter.

961.17 PERMIT AND INSPECTION FEE SCHEDULE.

The City Engineer shall adopt and maintain a schedule of itemized costs for the issuance of permits and inspections required to administer the provisions of this Chapter. The fee schedule, as adopted and/or hereafter amended shall be made available in the Office of the City Engineer and in the City of Canton Storm Water Management Manual.

961.18 DISCHARGE AND CONNECTION PROHIBITION.

(a) Prohibition of Illicit Discharges. No person shall discharge, or cause to be discharged, any illicit discharge into the MS4. The commencement, conduct, or continuance of any illicit discharge to the MS4 is prohibited except as described below:

- (1) The following "non-storm water discharges" as listed in the most current Ohio EPA Permit for Authorization For Small Municipal Separate Storm Sewer Systems To Discharge Storm Water Under The National Pollutant Discharge Elimination System, or as otherwise amended: waterline flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensate, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, discharges or flows from fire fighting

activities. These discharges are exempt until such time as they are determined by the City to be significant contributors of pollutants to the MS4.

- (2) Discharges specified in writing by the City as being necessary to protect public health and safety.
- (3) Discharges from off-lot discharging household sewage treatment systems existing prior to January 1, 2007, and permitted by the City of Canton Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29, or other applicable City of Canton Board of Health regulations, until such time as the Ohio Environmental Protection Agency issues an NPDES permitting mechanism for household sewage treatment systems existing prior to January 1, 2007. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the City of Canton Board of Health. Discharges from new or replacement off-lot household sewage treatment systems installed after January 1, 2007 are not exempt from the requirements of this Chapter.

In compliance with the City's NPDES Phase II Storm Water Management Program, discharges from all off-lot discharging household sewage treatment systems must either be eliminated or have coverage under an appropriate NPDES permit issued and approved by the Ohio Environmental Protection Agency. When such permit coverage is available for systems existing prior to January 1, 2007, discharges from off-lot discharging household sewage treatment systems existing prior to January 1, 2007, will no longer be exempt from the requirements of this Chapter.

(b) Prohibition of Illegal Connections. The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.

- (1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.

961.19 NOTIFICATION OF RELEASE OR SUSPECTED RELEASE OF ILLICIT DISCHARGES INTO MS4.

(a) Notwithstanding other requirements of law, as soon as any homeowner, landowner, or person responsible for a residence, land, business, facility, or operation, or

responsible for emergency response of such has information of any known or suspected release of materials which are resulting or may result in illicit discharges into the MS4 from said residence, land, business, facility, or operation, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(b) If the illicit discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(c) If any person has information of any known or suspected deliberate, accidental, or negligent release of hazardous material or prohibited illicit discharges into the MS4, said person shall notify the fire department within fifteen (15) minutes after such known or suspected release.

961.99 PENALTY.

(a) Any person violating any provision of this Chapter shall be subject to the following schedule of administrative penalties:

<u>Violation</u>	<u>Penalty of not more than:</u>
Failure to comply with compliance standards provided in Notice of Violation issued by appropriate Storm Water Authority (plus other penalties, as applicable)	\$500
Deliberate illicit discharge to City's MS4	\$1,000
Negligent illicit discharge to City's MS4	\$500
Failure to notify Fire Department of illicit discharge to City's MS4 within time frame established	\$500
Illegal connection to City's MS4	\$1,000

(b) In addition to any civil penalties or assessments and/or administrative orders, any person violating any provision of this Chapter shall be guilty of a minor misdemeanor on a first offense and fined not more than one hundred fifty dollars (\$150.00) per offense. Every day of violation shall be considered as a separate offense. If the offender has previously been convicted of a violation of a provision of this Chapter within a one year period of a second violation, the subsequent violation shall be a misdemeanor of the fourth degree.

Section 3. All ordinances or parts of ordinances inconsistent with this ordinance are repealed; however, any ordinance or part thereof the repeal of which is contrary to the Ohio statutes is specifically reserved and such ordinance or portion is not repealed.

Section 4. This ordinance shall take effect from and after the earliest period allowed by law.

PASSED: *October 5, 2009*

ATTEST: *October 5, 2009*

Cynthia Imvelake
Clerk of Council

[Signature]

President of Council

APPROVED:

Wm. Healy

Mayor